

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: \_\_\_\_\_ ) Chapter 11  
                  ) )  
EASTERN LIVESTOCK CO., LLC,         ) Case No. 10-93904-BHL-11  
                  ) )  
                  Debtor.                 ) )

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**TRUSTEE'S OBJECTION TO CLAIM 282 FILED BY RANDY RICHEY AND NOTICE  
OF RESPONSE DEADLINE**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 282 (the "Claim")<sup>1</sup> filed by Randy Richey. The Trustee requests that the Court enter an order reclassifying the Claim as a general unsecured claim and reserves the right to object to the final allowed amount of the Claim if and when Randy Richey receives payments outside the plan distributions made to Randy Richey in this case. In support of this Objection, the Trustee respectfully states:

**Jurisdiction**

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

**Background**

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11

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<sup>1</sup> All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

### **Request for Relief**

6. By this Objection, the Trustee seeks entry of an order reclassifying the Claim as a general unsecured claim in an amount to be determined after Randy Richey receives all non-plan payments.

7. It is unclear whether the Claim asserts a secured or priority claim. It checks the box marked "other" under the secured claim section and writes \$2,000 into the priority section without checking any statutory box. The Claim does not cite any law or fact to demonstrate that the Claim is entitled to secured or priority status. Debtor's books and records do not indicate any basis for awarding the Claim secured or priority status. The Trustee does not believe that the Claim properly asserts secured or priority status and files this Objection to clarify the classification of the Claim.

8. Further, the Trustee believes that Randy Richey has and may receive

payments from alternative sources, including the Kentucky Attorney General's Office and Debtor's GIPSA bond, that will reduce the amount of the Claim. The Trustee therefore reserves the right to object to the final allowed amount of the Claim at a later time.

9. The Trustee objects to the Claim and requests that the Claim be reclassified as a general unsecured claim in an amount to be determined after Randy Richey receives all non-plan payments.

**Notice of Response Deadline**

10. If Randy Richey wishes to contest the relief requested in this Objection, Randy Richey must file a response with the Court within thirty (30) days of the service of this Objection ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana, New Albany Division, 110 U.S. Courthouse, 121 West Spring Street, New Albany, IN 47150 no later than 4:30 p.m. EDT on the Response Deadline and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Dustin DeNeal). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order reclassifying the Claim as a general unsecured claim (subject to reduction in claim amount if Randy Richey receives payment from non-plan sources) and granting the Trustee all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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#### CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on March 11, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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/s/ Dustin R. DeNeal